



Senate

General Assembly

File No. 525

February Session, 2012

Substitute Senate Bill No. 353

Senate, April 18, 2012

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE STATE'S SECOND INJURY FUND.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-323 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 When any person presents in writing to the commissioner a claim
4 for compensation, either for injury sustained by [himself] such person
5 arising out of and in the course of his or her employment or for injury
6 resulting in the death of some person of whom [he] such person is an
7 alleged dependent, [he] or when it appears to the commissioner that
8 the claim may require payment from the Second Injury Fund, such
9 person or the Second Injury Fund, as the case may be, may ask that a
10 writ of attachment issue to secure the payment of the claim or claims
11 for compensation [as may arise out of the injury] or for reimbursement
12 for payments made or to be made by the Second Injury Fund. Unless it
13 appears from the records of the commissioner that there has been a
14 compliance with the provisions of section 31-284, which compliance is
15 then effective, or that the Insurance Commissioner has approved a

16 substitute system of compensation, benefit and insurance, the
17 commissioner may issue a writ of attachment in the manner and form
18 of writs of attachment in civil actions and shall be vested with the same
19 jurisdiction as authorities authorized to issue writs of attachment in
20 civil actions. If a writ is issued under this section and thereafter it
21 appears to the satisfaction of the commissioner that there has been a
22 compliance with the provisions of section 31-284, which compliance
23 was then effective and applicable to the injury in question, or that the
24 Insurance Commissioner has approved a substitute system of
25 compensation, benefit and insurance, the commissioner may vacate the
26 writ of attachment on the payment by the employer of the expense
27 actually incurred under such writ of attachment. The commissioners
28 are vested with the authority of the various courts to dissolve
29 attachments made under this section and, on the dissolution of an
30 attachment, may require the substitution of a bond in the same manner
31 as any court upon the dissolution of attachments in civil actions.

32 Sec. 2. Section 31-353 of the general statutes is repealed and the
33 following is substituted in lieu thereof (*Effective October 1, 2012*):

34 (a) If the Treasurer and an injured employee, or his legal
35 representative, reach an agreement in regard to compensation payable
36 under the provisions of this chapter, such agreement shall be
37 submitted in writing to the commissioner for his approval and, upon
38 approval, shall remain in effect until otherwise ordered by the
39 commissioner.

40 (b) The Treasurer may make payment by way of [final] stipulated
41 settlement in any matter concerning the fund [, including matters
42 under section 31-355] under the provisions of this chapter, subject to
43 the approval of the commissioner, whenever [it is for] such stipulated
44 settlement is: (1) In the best interests of the injured employee, (2) in the
45 best interests of the injured employee's dependents, or (3) for claims by
46 an employer or insurer pursuant to section 31-306, 31-307a or 31-310.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2012</i>	31-323
Sec. 2	<i>October 1, 2012</i>	31-353

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Treasurer	SIF - Savings	3,000-75,000	5,000-100,000
Treasurer	SIF - Precludes Cost	75,000	100,000

Note: SIF=Second Injury Fund

Municipal Impact: None

Explanation

Section 1 will result in a savings to the Second Injury Fund (SIF) of between \$3,000 and \$75,000 in FY 13 (partial year) and between \$5,000 and \$100,000 per year thereafter because it allows the SIF to file a lien against the assets of an uninsured employer for workers' compensation (WC) claims that are eligible for payment from the SIF. Filing such liens is expected to increase the likelihood that the employer will assume responsibility for settling the WC claim. The estimate is based on the cost to the SIF to settle cases of this type in prior years.

Section 2 conforms statutory language to current SIF practice with respect to the type of WC claims that are eligible for stipulated settlement payments. This will preclude an increase in SIF costs of approximately \$75,000 in FY 13 (partial year) and \$100,000 per year thereafter, because it is anticipated that the agency will no longer do settlements for these types of claims without the language changes.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Office of the State Treasurer

OLR Bill Analysis**sSB 353*****AN ACT CONCERNING THE STATE'S SECOND INJURY FUND.*****SUMMARY:**

This bill allows the Second Injury Fund to request, and a workers' compensation commissioner to issue, a writ of attachment against an employer when (1) a person has filed a workers' compensation claim, (2) the employer has not satisfied the requirements to carry insurance or demonstrate other means of paying workers' compensation claims, and (3) it appears the claim may require payment from the Second Injury Fund.

By law, employers are liable for any payments made from the fund and the state can collect the money in a civil action or by any means used to collect taxes. The state can also file a lien against the employer (CGS §§ 31-355 and -355a). By adding the ability to obtain an attachment for payments that may be made, the bill allows the fund to secure property that may be used to satisfy the employer's obligation to repay the fund.

By law, a workers' compensation claimant can request an attachment against an employer who has not satisfied the workers' compensation financial requirements to secure payment of his or her claim.

The bill also changes the law that currently allows the state treasurer to make a payment from the Second Injury Fund under a stipulated agreement (to settle a workers' compensation claim) whenever it is in the best interests of the injured employee. It allows the treasurer to make such payments (1) when it is in the best interests of the injured employee's dependents or (2) for claims by an employer or insurer regarding death benefits for dependents, cost of living

adjustments for dependents or claimants suffering long-term total disability, or cases of multiple employers where the Second Injury Fund makes payments to enable the employee full benefits.

EFFECTIVE DATE: October 1, 2012

BACKGROUND***Second Injury Fund***

This fund provides workers' compensation insurance coverage to workers whose employers failed to provide it. By law, the fund's custodian can also sue or join an employee's lawsuit.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 45 Nay 0 (04/02/2012)